IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE N.V. RAMANA

W.P. No. 10715 OF 2001

Dated : March 17, 2006

Between:

KCS Reddy

Petitioner

AND

Government of India,

Ministry of Civil Aviation,

Rep. by its Secretary,

New Delhi and two others.

Respondents

THE HONOURBALE SRI JUSTICE N.V. RAMANA

W.P. No. 10715 OF 2001

ORAL ORDER:

Seeking a writ of mandamus declaring the action the action of the respondents in deducting an amount of Rs.86,869/- from out of the retirement benefits towards the difference of interest on housing loan as illegal and arbitrary and consequently to direct the respondents to pay the same, the petitioner filed this writ petition.

The petitioner, an Ex-Serviceman, was appointed as Technician in the Indian Airlines in 1978 and subsequently promoted as Aircraft Engineer, in 1985 and superannuated on 30.11.2000. While working as Aircraft Engineer, being a member of Aircraft Technicians Housing Society, the petitioner was allotted plot/house bearing No. MIG-B-98. On 24.4.1989 the petitioner was called upon to explain as to the suppression of fact of his having a house in Kukatpally, allotted by A.P. Housing Board. The petitioner submitted an explanation stating that the said house was purchased from the nucleus of joint family funds. The respondents directed the petitioner to pay back an amount of Rs.1,25,000/- with interest within 60 days towards loan availed from the Aircraft Technicians Housing Society and on the request of the petitioner, the loan amount was deducted from the salary of the petitioner and he was under the impression that the entire loan amount is redeemed. But to his surprise, an amount of Rs.86,869/- was deducted from the retirement benefits towards the escalation in the rate of interest from 5½% to 18%, without notice to the petitioner. Therefore, the petitioner came up with the present writ petition.

Counter affidavit is filed by the 3rd respondent stating that at the request of the petitioner to extend the time for paying back the amount beyond sixty days, the respondent has extended the time by four months, but inspite of the same, the petitioner did not choose to pay back the amount. Therefore, the respondents have invoked clause 20 of the Indian Airlines Staff Housing Loan Regulations, which lays down that in the event of an employee failing to pay two consecutive instalments or failing to observe and perform the terms

and conditions, the amount due and payable by the employee shall become payable forthwith and the Corporation would be entitled to take such steps as may be deemed appropriate for the recovery thereof. It is also stated that the loan amount was disbursed to the petitioner in 1985, which was illegally retained by him in violation of the Regulations and also failed to fulfill the undertaking given by him in refunding the loan amount, as such, the respondents are entitled to collect interest at the normal prevailing rate of 18%, on such sum.

The main contention of the learned counsel for the petitioner is that the escalation of the rate of interest from 5½% to 18% is not traceable to any provision or Regulation and, it is therefore, liable to be slashed down.

The fact that the petitioner has availed housing loan is not in dispute. It is also a fact that the petitioner was already allotted house at Kukatpally by the A.P. Housing Board, which according to the petitioner is purchased by the joint family funds. It is also a fact that the petitioner has given an undertaking to pay back the amount and sought extension of time by letter dated 10.5.1989, but could not repay the same. What all the petitioner contends is that the rate of interest at 18% is on high side.

Admittedly, there is nothing on record which suggest that the respondent Corporation is entitled to claim interest at 18% p.a. Therefore, in the absence of any express provision or Regulation, I am of the considered view that it is not competent for the respondent – Corporation to claim interest at 18% p.a., more particularly in view of the fact that the petitioner has served the Corporation for quite long period. Hence, taking into consideration all these circumstances, I feel it appropriate to reduce the rate of interest from 18% to 12% p.a. and the respondents are directed to calculate the arrears payable by the petitioner at 12% p.a. and pay back the balance, if any.

The writ petition is accordingly disposed of. No order as to costs.

N.V.RAMANA, J.

March 17, 2006

MAS.